

ASSEMBLY BILL

No. 2059

Introduced by Assembly Member Berg

February 15, 2006

An act to amend Sections 16809 and 16809.4 of the Welfare and Institutions Code, relating to county health services.

LEGISLATIVE COUNSEL'S DIGEST

AB 2059, as introduced, Berg. County Medical Services Program.

Existing law provides that the board of supervisors of a county that contracted with the State Department of Health Services pursuant to a specified provision of law during the 1990–91 fiscal year and any county with a population under 300,000, as determined in accordance with the 1990 decennial census, by adopting a resolution to that effect, may elect to participate in the County Medical Services Program for state administration of health care services to eligible persons in the county.

Existing law, until January 1, 2008, authorizes counties that participate in the CMSP program to establish the CMSP Governing Board, to be comprised of various officers of participating counties, to govern the CMSP program and to establish eligibility and benefit levels.

This bill would extend that authorization to January 1, 2012.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 16809 of the Welfare and Institutions Code, as amended by Section 30 of Chapter 80 of the Statutes of 2005, is amended to read:

16809. (a) (1) The board of supervisors of a county that contracted with the department pursuant to Section 16709 during the 1990-91 fiscal year and any county with a population under 300,000, as determined in accordance with the 1990 decennial census, by adopting a resolution to that effect, may elect to participate in the County Medical Services Program. The County Medical Services Program shall have responsibilities for specified health services to county residents certified eligible for those services by the county.

(2) If the County Medical Services Program Governing Board contracts with the department to administer the County Medical Services Program, that contract shall include, but need not be limited to, all of the following:

(A) Provisions for the payment to participating counties for making eligibility determinations based on the formula used by the County Medical Services Program for the 1993-94 fiscal year.

(B) Provisions for payment of expenses of the County Medical Services Program Governing Board.

(C) Provisions relating to the flow of funds from counties' vehicle license fees, sales taxes, and participation fees and the procedures to be followed if a county does not pay those funds to the program.

(D) Those provisions, as applicable, contained in the 1993-94 fiscal year contract with counties under the County Medical Services Program.

(3) The contract between the department and the County Medical Services Program Governing Board shall require that the County Medical Services Program Governing Board shall reimburse three million five hundred thousand dollars (\$3,500,000) for the state costs of providing administrative support to the County Medical Services Program. The department may decline to implement decisions made by the governing board that would require a greater level of administrative support than that for the 1993-94 fiscal year. The

1 department may implement decisions upon compensation by the
2 governing board to cover that increased level of support.

3 (4) The contract between the department and the County
4 Medical Services Program Governing Board may include
5 provisions for the administration of a pharmacy benefit program
6 and, pursuant to these provisions, the department may negotiate,
7 on behalf of the County Medical Services Program, rebates from
8 manufacturers that agree to participate. The governing board
9 shall reimburse the department for staff costs associated with this
10 paragraph.

11 (5) The department shall administer the County Medical
12 Services Program pursuant to the provisions of the 1993-94 fiscal
13 year contract with the counties and regulations relating to the
14 administration of the program until the County Medical Services
15 Program Governing Board executes a contract for the
16 administration of the County Medical Services Program and
17 adopts regulations for that purpose.

18 (6) The department shall not be liable for any costs related to
19 decisions of the County Medical Services Program Governing
20 Board that are in excess of those set forth in the contract between
21 the department and the County Medical Services Program
22 Governing Board.

23 (b) Each county intending to participate in the County Medical
24 Services Program pursuant to this section shall submit to the
25 Governing Board of the County Medical Services Program a
26 notice of intent to contract adopted by the board of supervisors
27 no later than April 1 of the fiscal year preceding the fiscal year in
28 which the county will participate in the County Medical Services
29 Program.

30 (c) A county participating in the County Medical Services
31 Program pursuant to this section shall not be relieved of its
32 indigent health care obligation under Section 17000.

33 (d) (1) The County Medical Services Program Account is
34 established in the County Health Services Fund. The County
35 Medical Services Program Account is continuously appropriated,
36 notwithstanding Section 13340 of the Government Code, without
37 regard to fiscal years. The following amounts may be deposited
38 in the account:

39 (A) Any interest earned upon money deposited in the account.

1 (B) Moneys provided by participating counties or appropriated
2 by the Legislature to the account.

3 (C) Moneys loaned pursuant to subdivision (q).

4 (2) The methods and procedures used to deposit funds into the
5 account shall be consistent with the methods used by the program
6 during the 1993-94 fiscal year.

7 (e) Moneys in the program account shall be used by the
8 department, pursuant to its contract with the County Medical
9 Services Program Governing Board, to pay for health care
10 services provided to the persons meeting the eligibility criteria
11 established pursuant to subdivision (j) and to pay for the expense
12 of the governing board as set forth in the contract between the
13 board and the department. In addition, moneys in this account
14 may be used to reimburse the department for state costs pursuant
15 to paragraph (3) of subdivision (a).

16 (f) (1) Moneys in this account shall be administered on an
17 accrual basis and notwithstanding any other provision of law,
18 except as provided in this section, shall not be transferred to any
19 other fund or account in the State Treasury except for purposes of
20 investment as provided in Article 4 (commencing with Section
21 16470) of Chapter 3 of Part 2 of Division 4 of Title 2 of the
22 Government Code.

23 (2) (A) All interest or other increment resulting from the
24 investment shall be deposited in the program account, at the end
25 of the 1982-83 fiscal year and every six months thereafter,
26 notwithstanding Section 16305.7 of the Government Code.

27 (B) All interest deposited pursuant to subparagraph (A) shall
28 be available to reimburse program-covered services, County
29 Medical Services Program Governing Board expenses, or for
30 expenditures to augment the program's rates, benefits, or
31 eligibility criteria pursuant to subdivision (j).

32 (g) A separate County Medical Services Program Reserve
33 Account is established in the County Health Services Fund. Six
34 months after the end of each fiscal year, any projected savings in
35 the program account shall be transferred to the reserve account,
36 with final settlement occurring no more than 12 months later.
37 Moneys in this account shall be utilized when expenditures for
38 health services made pursuant to subdivision (j) for a fiscal year
39 exceed the amount of funds available in the program account for
40 that fiscal year. When funds in the reserve account are estimated

1 to exceed 10 percent of the budget for health services for all
2 counties electing to participate in the County Medical Services
3 Program under this section for the fiscal year, the additional
4 funds shall be available for expenditure to augment the rates,
5 benefits, or eligibility criteria pursuant to subdivision (j) or for
6 reducing the participation fees as determined by the County
7 Medical Services Program Governing Board pursuant to
8 subdivision (i). Nothing in this section shall preclude the CMSP
9 Governing Board from establishing other reserves.

10 (h) Moneys in the program account and the reserve account,
11 except for moneys provided by the state in excess of the amount
12 required to fund the state risk specified in subdivision (j), and
13 any funds loaned pursuant to subdivision (q) shall not be
14 transferred to any other fund or account in the State Treasury
15 except for purposes of investment as provided in Article 4
16 (commencing with Section 16470) of Chapter 3 of Part 2 of
17 Division 4 of Title 2 of the Government Code. All interest or
18 other increment resulting from investment shall be deposited in
19 the program account, notwithstanding Section 16705.7 of the
20 Government Code.

21 (i) (1) Counties shall pay participation fees as established by
22 the County Medical Services Program Governing Board and their
23 jurisdictional risk amount in a method that is consistent with that
24 established in the 1993-94 fiscal year.

25 (2) A county may request, due to financial hardship, the
26 payments under paragraph (1) be delayed. The request shall be
27 subject to approval by the CMSP Governing Board.

28 (3) Payments made pursuant to this subdivision shall be
29 deposited in the program account.

30 (4) Payments may be made as part of the deposits authorized
31 by the county pursuant to Sections 17603.05 and 17604.05.

32 (j) (1) (A) For the 1991-92 fiscal year and all preceding fiscal
33 years, the state shall be at risk for any costs in excess of the
34 amounts deposited in the reserve fund.

35 (B) (i) Beginning in the 1992-93 fiscal year and for each
36 fiscal year thereafter, counties and the state shall share the risk
37 for cost increases of the County Medical Services Program not
38 funded through other sources. The state shall be at risk for any
39 cost that exceeds the cumulative annual growth in dedicated sales
40 tax and vehicle license fee revenue, up to the amount of twenty

1 million two hundred thirty-seven thousand four hundred sixty
 2 dollars (\$20,237,460) per fiscal year, except for the 1999-2000,
 3 2000-01, 2001-02, 2002-03, 2003-04, 2004-05, and 2005-06
 4 fiscal years. Counties shall be at risk up to the cumulative annual
 5 growth in the Local Revenue Fund created by Section 17600,
 6 according to the table specified in paragraph (2), to the County
 7 Medical Services Program, plus the additional cost increases in
 8 excess of twenty million two hundred thirty-seven thousand four
 9 hundred sixty dollars (\$20,237,460) per fiscal year, except for the
 10 1999-2000, 2000-01, 2001-02, 2002-03, 2003-04, 2004-05, and
 11 2005-06 fiscal years. In the 1994-95 fiscal year, the amount of
 12 the state risk shall be twenty million two hundred thirty-seven
 13 thousand four hundred sixty dollars (\$20,237,460) per fiscal year,
 14 in addition to the cost of administrative support pursuant to
 15 paragraph (3) of subdivision (a).

16 (ii) For the 1999-2000, 2000-01, 2001-02, 2002-03, 2003-04,
 17 2004-05, and 2005-06 fiscal years, the state shall not be at risk
 18 for any cost that exceeds the cumulative annual growth in
 19 dedicated sales tax and vehicle license fee revenue. Counties
 20 shall be at risk up to the cumulative annual growth in the Local
 21 Revenue Fund created by Section 17600, according to the table
 22 specified in paragraph (2), to the County Medical Services
 23 Program, plus any additional cost increases for the 1999-2000,
 24 2000-01, 2001-02, 2002-03, 2003-04, 2004-05, and 2005-06
 25 fiscal years.

26 (C) The CMSP Governing Board, after consultation with the
 27 department, shall establish uniform eligibility criteria and
 28 benefits for the County Medical Services Program.

29 (2) For the 1991-92 fiscal year, jurisdictional risk limitations
 30 shall be as follows:

| 31 | Jurisdiction | Amount |
|----|----------------|-----------|
| 32 | Alpine..... | \$ 13,150 |
| 33 | Amador..... | 620,264 |
| 34 | Butte..... | 5,950,593 |
| 35 | Calaveras..... | 913,959 |
| 36 | Colusa..... | 799,988 |
| 37 | Del Norte..... | 781,358 |
| 38 | El Dorado..... | 3,535,288 |
| 39 | Glenn..... | 787,933 |
| 40 | | |

| | | |
|----|-----------------|------------|
| 1 | Jurisdiction | Amount |
| 2 | Humboldt..... | 6,883,182 |
| 3 | Imperial..... | 6,394,422 |
| 4 | Inyo..... | 1,100,257 |
| 5 | Kings..... | 2,832,833 |
| 6 | Lassen..... | 687,113 |
| 7 | Madera..... | 2,882,147 |
| 8 | Marin..... | 7,725,909 |
| 9 | Mariposa..... | 435,062 |
| 10 | Modoc..... | 469,034 |
| 11 | Mono..... | 369,309 |
| 12 | Napa..... | 3,062,967 |
| 13 | Nevada..... | 1,860,793 |
| 14 | Plumas..... | 905,192 |
| 15 | San Benito..... | 1,086,011 |
| 16 | Shasta..... | 5,361,013 |
| 17 | Sierra..... | 135,888 |
| 18 | Siskiyou..... | 1,372,034 |
| 19 | Solano..... | 6,871,127 |
| 20 | Sonoma..... | 13,183,359 |
| 21 | Sutter..... | 2,996,118 |
| 22 | Tehama..... | 1,912,299 |
| 23 | Trinity..... | 611,497 |
| 24 | Tuolumne..... | 1,455,320 |
| 25 | Yuba..... | 2,395,580 |

26
27 (3) Beginning in the 1991-92 fiscal year and in subsequent
28 fiscal years, the jurisdictional risk limitation for the counties that
29 did not contract with the department pursuant to Section 16709
30 during the 1990-91 fiscal year shall be the amount specified in
31 paragraph (A) plus the amount determined pursuant to paragraph
32 (B), minus the amount specified by the County Medical Services
33 Program Governing Board as participation fees.

34 (A)

| | | |
|----|----------------|-------------|
| 35 | | |
| 36 | Jurisdiction | Amount |
| 37 | Lake..... | \$1,022,963 |
| 38 | Mendocino..... | 1,654,999 |
| 39 | Merced..... | 2,033,729 |
| 40 | Placer..... | 1,338,330 |

| | | |
|---|----------------------|-----------|
| 1 | San Luis Obispo..... | 2,000,491 |
| 2 | Santa Cruz..... | 3,037,783 |
| 3 | Yolo..... | 1,475,620 |

4

5 (B) The amount of funds necessary to fully fund the
6 anticipated costs for the county shall be determined by the CMSP
7 Governing Board before a county is permitted to participate in
8 the County Medical Services Program.

9 (4) For the 1994-95 and 1995-96 fiscal years, the specific
10 amounts and method of apportioning risk to each participating
11 county may be adjusted by the CMSP Governing Board.

12 (k) The Legislature hereby determines that an expedited
13 contract process for contracts under this section is necessary.
14 Contracts under this section shall be exempt from Part 2
15 (commencing with Section 10100) of Division 2 of the Public
16 Contract Code. Contracts of the department pursuant to this
17 section shall have no force or effect unless they are approved by
18 the Department of Finance.

19 (l) The state shall not incur any liability except as specified in
20 this section.

21 (m) Third-party recoveries for services provided under this
22 section pursuant to Article 3.5 (commencing with Section
23 14124.70) of Chapter 7 of Part 3 may be pursued.

24 (n) Under the program provided for in this section, the
25 department may reimburse hospitals for inpatient services at the
26 rates negotiated for the Medi-Cal program by the California
27 Medical Assistance Commission, pursuant to Article 2.6
28 (commencing with Section 14081) of Chapter 7 of Part 3, if the
29 California Medical Assistance Commission determines that
30 reimbursement to the hospital at the contracted rate will not have
31 a detrimental fiscal impact on either the Medi-Cal program or the
32 program provided for in this section. In negotiating and
33 renegotiating contracts with hospitals, the commission may seek
34 terms which allow reimbursement for patients receiving services
35 under this section at contracted Medi-Cal rates.

36 (o) Any hospital which has a contract with the state for
37 inpatient services under the Medi-Cal program and which has
38 been approved by the commission to be reimbursed for patients
39 receiving services under this section shall not deny services to
40 these patients.

1 (p) Participating counties may conduct an independent
2 program review to identify ways through which program savings
3 may be generated. The counties and the department may
4 collectively pursue identified options for the realization of
5 program savings.

6 (q) The Department of Finance may authorize a loan of up to
7 thirty million dollars (\$30,000,000) for deposit into the program
8 account to ensure that there are sufficient funds available to
9 reimburse providers and counties pursuant to this section.

10 (r) Regulations adopted by the department pursuant to this
11 section shall remain operative and shall be used to operate the
12 County Medical Services Program until a contract with the
13 County Medical Services Program Governing Board is executed
14 and regulations, as appropriate, are adopted by the County
15 Medical Services Program Governing Board. Notwithstanding
16 Chapter 3.5 (commencing with Section 11340) of Part 1 of
17 Division 3 of Title 2 of the Government Code, those regulations
18 adopted under the County Medical Services Program shall
19 become inoperative until January 1, 1998, except those
20 regulations that the department, in consultation with the County
21 Medical Services Program Governing Board, determines are
22 needed to continue to administer the County Medical Services
23 Program. The department shall notify the Office of
24 Administrative Law as to those regulations the department will
25 continue to use in the implementation of the County Medical
26 Services Program.

27 (s) Moneys appropriated from the General Fund to meet the
28 state risk as set forth in subparagraph (B) of paragraph (1) of
29 subdivision (j) shall not be available for those counties electing
30 to disenroll from the County Medical Services Program.

31 (t) This section shall remain in effect only until January 1,
32 ~~2008~~ 2012, and as of that date is repealed, unless a later enacted
33 statute, that is enacted on or before January 1, ~~2008~~ 2012, deletes
34 or extends that date.

35 SEC. 2. Section 16809 of the Welfare and Institutions Code,
36 as amended by Section 31 of Chapter 80 of the Statutes of 2005,
37 is amended to read:

38 16809. (a) The board of supervisors of a county that
39 contracted with the department pursuant to Section 16709 during
40 the 1990-91 fiscal year and any county with a population under

1 300,000, as determined in accordance with the 1990 decennial
2 census, may enter into a contract with the department and the
3 department may enter into a contract with that county under
4 which the department agrees to administer the program
5 responsibilities for specified health services to county residents
6 certified eligible for those services by the county.

7 (b) Each county intending to contract with the department
8 pursuant to this section shall submit to the department a notice of
9 intent to contract adopted by the board of supervisors no later
10 than April 1 of the fiscal year preceding the fiscal year for which
11 the agreement will be in effect in accordance with procedures
12 established by the department.

13 (c) A county contracting with the department pursuant to this
14 section shall not be relieved of its indigent health care obligation
15 under Section 17000.

16 (d) The department shall establish the County Medical
17 Services Program Account in the County Health Services Fund.
18 The County Medical Services Program Account is continuously
19 appropriated, notwithstanding Section 13340 of the Government
20 Code, without regard to fiscal years. The following amounts may
21 be deposited in the account:

22 (1) Any interest earned upon money deposited in the account.

23 (2) Moneys provided by participating counties or appropriated
24 by the Legislature to the account.

25 (3) Moneys loaned pursuant to subdivision (q).

26 (e) Moneys in the program account shall be used by the
27 department to pay for health care services provided to the
28 persons meeting the eligibility criteria established pursuant to
29 subdivision (j).

30 (f) (1) Moneys in this account shall be administered on an
31 accrual basis and notwithstanding any other provision of law,
32 except as provided in this section, shall not be transferred to any
33 other fund or account in the State Treasury except for purposes of
34 investment as provided in Article 4 (commencing with Section
35 16470) of Chapter 3 of Part 2 of Division 4 of Title 2 of the
36 Government Code.

37 (2) (A) All interest or other increment resulting from the
38 investment shall be deposited in the program account, at the end
39 of the 1982-83 fiscal year and every six months thereafter,
40 notwithstanding Section 16305.7 of the Government Code.

1 (B) All interest deposited pursuant to subparagraph (A) shall
2 be available to reimburse program-covered services, or for
3 expenditures to augment the program's rates, benefits, or
4 eligibility criteria pursuant to subdivision (j).

5 (g) The department shall establish a separate County Medical
6 Services Program Reserve Account in the County Health
7 Services Fund. Six months after the end of each fiscal year, any
8 projected savings in the program account shall be transferred to
9 the reserve account, with final settlement occurring no more than
10 12 months later. Moneys in this account shall be utilized when
11 expenditures for health services made pursuant to subdivision (j)
12 for a fiscal year exceed the amount of funds available in the
13 program account for that fiscal year. When funds in the reserve
14 account are estimated to exceed 10 percent of the budget for
15 health services for all counties electing to contract with the
16 department under this section for the fiscal year, the additional
17 funds shall be available for expenditure to augment the rates,
18 benefits, or eligibility criteria pursuant to subdivision (j) or for
19 reducing the participation fees required by Section 16809.3.

20 (h) Moneys in the program account and the reserve account,
21 except for moneys provided by the state in excess of the amount
22 required to fund the state risk specified in subdivision (j), and
23 any funds loaned pursuant to subdivision (q), shall not be
24 transferred to any other fund or account in the State Treasury
25 except for purposes of investment as provided in Article 4
26 (commencing with Section 16470) of Chapter 3 of Part 2 of
27 Division 4 of Title 2 of the Government Code. All interest or
28 other increment resulting from investment shall be deposited in
29 the program account, notwithstanding Section 16705.7 of the
30 Government Code.

31 (i) (1) Counties shall pay by the 15th of each month the
32 agreed-upon contract amount. In the event a county does not
33 make the agreed-upon monthly payment, the department may
34 terminate the county's participation in the program.

35 (2) A county may request, due to financial hardship, the
36 payments under paragraph (1) be delayed. The request shall be
37 subject to approval by the Small County Advisory Committee.

38 (3) Payments made pursuant to this subdivision shall be
39 deposited in the program account.

(4) Payments may be made as part of the deposits authorized by the county pursuant to Sections 17603.05 and 17604.05.

(j) (1) (A) For the 1991-92 fiscal year and all preceding fiscal years, the state shall be at risk for any costs in excess of the amounts deposited in the reserve fund.

(B) Beginning in the 1992-93 fiscal year and for each fiscal year thereafter, counties and the state shall share the risk for cost increases of the County Medical Services Program not funded through other sources. The state shall be at risk for any cost that exceeds the cumulative annual growth in dedicated sales tax and vehicle license fee revenue, up to the amount of twenty million two hundred thirty-seven thousand four hundred sixty dollars (\$20,237,460) per fiscal year, except for the 1999-2000, 2000-01, 2001-02, 2002-03, 2003-04, 2004-05, and 2005-06 fiscal years. Counties shall be at risk up to the cumulative annual growth in the Local Revenue Fund created by Section 17600 according to the table specified in paragraph (2) to the County Medical Services Program, plus additional cost increases in excess of twenty million two hundred thirty-seven thousand four hundred sixty dollars (\$20,237,460) per fiscal year.

(C) As a condition of the state assuming this risk, the department may require uniform eligibility criteria and benefits to be provided which shall be mutually established by participating counties in conjunction with the department. The County Medical Services Program Governing Board may revise these eligibility criteria and benefits or alter rates of payment in order to assure that expenditures do not exceed the funds available in the program account.

(2) For the 1991-92 fiscal year, jurisdictional risk limitations shall be as follows:

| Jurisdiction | Amount |
|----------------|-----------|
| Alpine..... | \$ 13,150 |
| Amador..... | 620,264 |
| Butte..... | 5,950,593 |
| Calaveras..... | 913,959 |
| Colusa..... | 799,988 |
| Del Norte..... | 781,358 |
| El Dorado..... | 3,535,288 |
| Glenn..... | 787,933 |

| | | |
|----|-----------------|------------|
| 1 | Humboldt..... | 6,883,182 |
| 2 | Imperial..... | 6,394,422 |
| 3 | Inyo..... | 1,100,257 |
| 4 | Kings..... | 2,832,833 |
| 5 | Lassen..... | 687,113 |
| 6 | Madera..... | 2,882,147 |
| 7 | Marin..... | 7,725,909 |
| 8 | Mariposa..... | 435,062 |
| 9 | Modoc..... | 469,034 |
| 10 | Mono..... | 369,309 |
| 11 | Napa..... | 3,062,967 |
| 12 | Nevada..... | 1,860,793 |
| 13 | Plumas..... | 905,192 |
| 14 | San Benito..... | 1,086,011 |
| 15 | Shasta..... | 5,361,013 |
| 16 | Sierra..... | 135,888 |
| 17 | Siskiyou..... | 1,372,034 |
| 18 | Solano..... | 6,871,127 |
| 19 | Sonoma..... | 13,183,359 |
| 20 | Sutter..... | 2,996,118 |
| 21 | Tehama..... | 1,912,299 |
| 22 | Trinity..... | 611,497 |
| 23 | Tuolumne..... | 1,455,320 |
| 24 | Yuba..... | 2,395,580 |

25
26 (3) Beginning in the 1991-92 fiscal year and in subsequent
27 fiscal years, the jurisdictional risk limitation for the counties that
28 did not contract with the department pursuant to Section 16709
29 during the 1990-91 fiscal year shall be the amount specified in
30 paragraph (A) plus the amount determined pursuant to paragraph
31 (B), minus the amount specified in Section 16809.3.

32 (A)

| | | |
|----|----------------------|-----------|
| 33 | | |
| 34 | Jurisdiction | Amount |
| 35 | Lake..... | 1,022,963 |
| 36 | Mendocino..... | 1,654,999 |
| 37 | Merced..... | 2,033,729 |
| 38 | Placer..... | 1,338,330 |
| 39 | San Luis Obispo..... | 2,000,491 |
| 40 | Santa Cruz..... | 3,037,783 |

1 Yolo..... 1,475,620

2

3 (B) The amount of funds necessary to fully fund the
4 anticipated costs for the county shall be determined by the
5 department. This amount shall be subject to the approval of both
6 the Department of Finance and the Small County Advisory
7 Committee before a county is permitted to contract back with the
8 department.

9 (4) For the 1992-93 fiscal year and fiscal years thereafter, the
10 amounts of the jurisdictional risk limitations shall be adjusted
11 according to the provisions of paragraph (2).

12 (k) The Legislature hereby determines that an expedited
13 contract process for contracts under this section is necessary.
14 Contracts under this section shall be exempt from the provisions
15 of Chapter 2 (commencing with Section 10290) of Part 2 of
16 Division 2 of the Public Contract Code. Contracts shall have no
17 force and effect unless approved by the Department of Finance.

18 (l) The state shall not incur any liability except as specified in
19 this section.

20 (m) The department may pursue third-party recoveries for
21 services provided under this section pursuant to Article 3.5
22 (commencing with Section 14124.70) of Chapter 7 of Part 3.

23 (n) Under the program provided for in this section, the
24 department shall reimburse hospitals for inpatient services at the
25 rates negotiated for the Medi-Cal program by the California
26 Medical Assistance Commission, pursuant to Article 2.6
27 (commencing with Section 14081) of Chapter 7 of Part 3, if the
28 California Medical Assistance Commission determines that
29 reimbursement to the hospital at the contracted rate will not have
30 a detrimental fiscal impact on either the Medi-Cal program or the
31 program provided for in this section. In negotiating and
32 renegotiating contracts with hospitals, the commission may seek
33 terms which allow reimbursement for patients receiving services
34 under this section at contracted Medi-Cal rates.

35 (o) Any hospital which has a contract with the state for
36 inpatient services under the Medi-Cal program and which has
37 been approved by the commission to be reimbursed for patients
38 receiving services under this section shall not deny services to
39 these patients.

1 (p) Participating counties may conduct an independent
2 program review to identify ways through which program savings
3 may be generated. The counties and the department shall
4 collectively pursue identified options for the realization of
5 program savings.

6 (q) The Department of Finance may authorize a loan of up to
7 thirty million dollars (\$30,000,000) for deposit into the program
8 account to ensure that there are sufficient funds available to
9 reimburse providers and counties pursuant to this section.

10 (r) This section shall become operative January 1, ~~2008~~ 2012.

11 SEC. 3. Section 16809.4 of the Welfare and Institutions Code
12 is amended to read:

13 16809.4. (a) Counties voluntarily participating in the County
14 Medical Services Program pursuant to Section 16809 may
15 establish the County Medical Services Program Governing Board
16 pursuant to procedures contained in this section. The board shall
17 govern the CMSP program.

18 (b) The membership of the board shall be comprised of all of
19 the following:

20 (1) Three members who shall each be a member of a county
21 board of supervisors.

22 (2) Three members who shall be county administrative
23 officers.

24 (3) Two members who shall be county welfare directors.

25 (4) Two members who shall be county health officials.

26 (5) One member who shall be the Secretary of the Health and
27 Welfare Agency, or his or her designee, and who shall serve as
28 an ex officio, nonvoting member.

29 (c) The board may establish its own bylaws and operating
30 procedures.

31 (d) The voting membership of the board shall meet all of the
32 following requirements:

33 (1) All of the members shall hold office or employment in
34 counties that participate in the CMSP program.

35 (2) The initial CMSP Governing Board shall be composed of
36 the incumbent members of the Small County Advisory
37 Committee holding office on the effective date of this section.
38 Those members shall choose one additional county supervisor
39 and one additional county administrative officer. The initial
40 CMSP Governing Board shall hold office until April 1, 1995.

(3) The initial CMSP Governing Board shall be succeeded on April 1, 1995, by a board chosen in the following order so as to ensure that no two representatives shall be from the same county.

Following the effective date of this section:

(A) The three county supervisor members shall be elected by the CMSP counties acting prior to February 1, 1995, with each county having one vote and convened at the call of the Chair of the CMSP Governing Board.

(B) The three county administrative officers shall be elected by the administrative officers of the CMSP counties convened at the call of the Chair of the CMSP Governing Board prior to February 15, 1995.

(C) The two county health officials shall be selected by the health officials of the CMSP counties convened at the call of the Chair of the CMSP Governing Board prior to March 1, 1995.

(D) The two county welfare directors shall be elected by the welfare directors of the CMSP counties convened at the call of the Chair of the CMSP Governing Board prior to March 15, 1995.

(4) Board members shall serve three-year terms.

(5) No two persons from the same county may serve as members of the board at the same time.

(e) (1) The board shall convene its first meeting at the call of the Chair of the Small County Advisory Committee, who shall serve as interim chairperson of the board.

(2) The board may elect a permanent chair.

(f) (1) The CMSP Governing Board is hereby established with the following powers:

(A) Determine program eligibility and benefit levels.

(B) Establish reserves and participation fees.

(C) Establish procedures for the entry into, and disenrollment of counties from the County Medical Services Program. Disenrollment procedures shall be fair and equitable.

(D) Establish cost containment and case management procedures, including, but not limited to, alternative methods for delivery of care and alternative methods and rates for those authorized by the department.

(E) Sue and be sued in the name of the CMSP Governing Board.

(F) Apportion jurisdictional risk to each county.

1 (G) Utilize procurement policies and procedures of any of the
2 participating counties as selected by the governing board.

3 (H) Make rules and regulations.

4 (I) Make and enter into contracts or stipulations of any nature
5 with a public agency or person for the purposes of governing or
6 administering the CMSP.

7 (J) Purchase supplies, equipment, materials, property, or
8 services.

9 (K) Appoint and employ staff to assist the CMSP Governing
10 Board.

11 (L) Establish rules for its proceedings.

12 (M) Accept gifts, contributions, grants, or loans from any
13 public agency or person for the purposes of this program.

14 (N) Negotiate and set rates, charges, or fees with service
15 providers, including alternative methods of payment to those
16 used by the department.

17 (O) Establish methods of payment that are compatible with the
18 administrative requirements of the department's fiscal
19 intermediary during the term of any contract with the department
20 for the administration of the CMSP.

21 (P) Use generally accepted accounting procedures.

22 (2) The Legislature finds and declares that the amendment of
23 subparagraph (N) of paragraph (1) in 1995 is declaratory of
24 existing law.

25 (g) (1) The CMSP Governing Board shall be considered a
26 "public entity" for purposes of Division 3.6 (commencing with
27 Section 810) of Title 1 of the Government Code, and a "local
28 public entity" for purposes of Part 3 (commencing with Section
29 900) of Division 3.6 of Title 1 of the Government Code, but shall
30 not be considered a "state agency" for purposes of Chapter 3.5
31 (commencing with Section 11340) of Part 1 of Division 3 of Title
32 2 of the Government Code and shall be exempt from that chapter.
33 No participating county shall have any liability for civil
34 judgments awarded against the County Medical Services
35 Program or the board. Nothing in this paragraph shall be
36 construed to expand the liability of the state with respect to the
37 County Medical Services Program beyond that set forth in
38 Section 16809. Nothing in this paragraph shall be construed to
39 relieve any county of the obligation to provide health care to
40 indigent persons pursuant to Section 17000.

(2) Before initiating any proceeding to challenge rates of payment, charges, or fees set by the board, to seek reimbursement or release of any funds from the County Medical Services Program, or to challenge any other action by the board, any prospective claimant shall first notify the board, in writing, of the nature and basis of the challenge and the amount claimed. The board shall consider the matter within 60 days after receiving the notice and shall promptly thereafter provide written notice of the board's decision. This paragraph shall have no application to provider audit appeals conducted pursuant to Article 1.5 (commencing with Section 51016) of Chapter 3 of Division 3 of Title 22 of the California Code of Regulations and shall apply to all claims not reviewed pursuant to Sections 51003 or 51015 of Title 22 of the California Code of Regulations.

(3) All regulations adopted by the CMSP Governing Board shall clearly specify by reference the statute, court decision, or other provision of law that the governing board is seeking to implement, interpret, or make specific by adopting, amending, or repealing the regulation.

(4) No regulation adopted by the governing board is valid and effective unless the regulation meets the standards of necessity, authority, clarity, consistency, and nonduplication, as defined in paragraph (5).

(5) The following definitions govern the interpretation of this subdivision:

(A) "Necessity" means the record of the regulatory proceeding that demonstrates by substantial evidence the need for the regulation. For purposes of this standard, evidence includes, but is not limited to, facts, studies, and expert opinion.

(B) "Authority" means the provision of law that permits or obligates the CMSP Governing Board to adopt, amend, or repeal a regulation.

(C) "Clarity" means that the regulation is written or displayed so that the meaning of the regulation can be easily understood by those persons directly affected by it.

(D) "Consistency" means being in harmony with, and not in conflict with, or contradictory to, existing statutes, court decisions, or other provisions of law.

(E) "Nonduplication" means that a regulation does not serve the same purpose as a state or federal statute or another

1 regulation. This standard requires that the governing board
2 identify any state or federal statute or regulation that is
3 overlapped or duplicated by the proposed regulation and justify
4 any overlap or duplication. This standard is not intended to
5 prohibit the governing board from printing relevant portions of
6 enabling legislation in regulations when the duplication is
7 necessary to satisfy the clarity standard in subparagraph (C). This
8 standard is intended to prevent the indiscriminate incorporation
9 of statutory language in a regulation.

10 (h) The requirements of the Ralph M. Brown Act (Chapter 9
11 (commencing with Section 54950) of Part 1 of Division 2 of Title
12 5 of the Government Code) shall apply to the meetings of the
13 CMSP Governing Board, including meetings held pursuant to
14 subdivision (i), except the board may meet in closed session to
15 consider and take action on matters pertaining to contracts and
16 contract negotiations with providers of health care services.

17 (i) (1) The governing board shall comply with the following
18 procedures for public meetings held to eliminate or reduce the
19 level of services, restrict eligibility for services, or adopt
20 regulations:

21 (A) Provide prior public notice of those meetings.

22 (B) Provide that notice not less than 30 days prior to those
23 meetings.

24 (C) Publish that notice in a newspaper of general circulation in
25 each participating CMSP county.

26 (D) Include in the notice, at a minimum, the amount and type
27 of each proposed change, the expected savings, and the number
28 of persons affected.

29 (E) Hold those meetings in the county seats of at least four
30 regionally distributed CMSP participating counties.

31 (F) Locate those meetings so as to provide that each hearing
32 will be within a four-hour one-way drive of one quarter of the
33 target population so that the four meetings shall be held at
34 locations in the state that will ensure that each member of the
35 target population may reach at least one of the meetings by a
36 one-way drive that does not exceed four hours.

37 (2) From January 1, 2004, to July 1, 2005, inclusive, the
38 requirements for public meetings pursuant to this subdivision to
39 eliminate or reduce the level of services, or to restrict the
40 eligibility for services or hear testimony regarding regulations to

1 implement any of these service charges, are satisfied if at least
2 three voting members of the governing board hold the meetings
3 as required and report the testimony from those meetings to the
4 full board at its next regular meeting. No action shall be taken at
5 any meeting held pursuant to this subdivision.

6 (j) Records of the County Medical Services Program and of
7 the CMSP Governing Board that relate to rates of payment or to
8 the board's negotiations with providers of health care services or
9 to the board's deliberative processes regarding either shall not be
10 subject to disclosure pursuant to the Public Records Act (Chapter
11 5 (commencing with Section 6250) of Division 7 of Title 1 of the
12 Government Code).

13 (k) The following definitions shall govern the construction of
14 this part, unless the context requires otherwise:

15 (1) "CMSP Governing Board" means the County Medical
16 Services Program Governing Board established pursuant to this
17 section.

18 (2) "Board" means the County Medical Services Program
19 Governing Board established pursuant to this section.

20 (3) "CMSP" means the program by which health care services
21 are provided to eligible persons in those counties electing to
22 participate in the CMSP pursuant to Section 16809.

23 (4) "CMSP county" means a county that has elected to
24 participate pursuant to Section 16809 in the CMSP.

25 (l) Any references to the "County Medical Services Program"
26 or "CMSP county" in this code shall be defined as set forth in
27 this section.

28 (m) This section shall remain in effect only until January 1,
29 2008 2012, and as of that date is repealed, unless a later enacted
30 statute, that is enacted on or before January 1, 2008 2012, deletes
31 or extends that date.